

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF NEW YORK

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BLACK LOVE RESISTS IN THE RUST, et al.,

*Plaintiffs,*

Case No. 1:18-cv-719

- vs -

CITY OF BUFFALO, N.Y., et al.,

*Defendants.*

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**PLAINTIFFS' NOTICE OF MOTION, MOTION FOR ENTRY OF ORDER GRANTING  
PLAINTIFFS' MOTION TO COMPEL (ECF # 34), AND INCORPORATED  
MEMORANDUM OF LAW**

PLEASE TAKE NOTICE that Plaintiffs will move this Court, pursuant to Federal Rules of Civil Procedure 37, on a return date to be determined by the Court, for an Order granting Plaintiffs' July 24, 2019 Motion to Compel Defendants to Comply with the Court's May 30, 2019 Discovery Order and Other Discovery Obligations (the "Motion"). In support of this Motion, Plaintiffs state:

1. Plaintiffs filed their Motion on July 24, 2019, seeking an order from the Court compelling Defendants: (i) to comply with their obligations under the Federal Rules and, specifically, this Court's May 30, 2019 directive, to begin a rolling production of ESI; (ii) to locate and produce BPD Housing Unit, Traffic Unit and Strike Force Monthly and Daily Reports, and (iii) to supplement their answer to Interrogatory 1. Plaintiffs further requested that the Court grant them an award of reasonable expenses, including attorney's fees, associated with Plaintiffs' making this motion pursuant to Federal Rule of Civil Procedure 37(a)(5)(A). *See* ECF 34.

2. Defendants' deadline to file a Response to this Motion was August 7, 2019. *See* Local Civ. R. 7(b)(2)(B). Defendants did not file a Response by this deadline. Defendants did not request consent for an extension of this deadline from Plaintiffs or otherwise seek leave for one from this Court, and Plaintiffs are aware of no good cause or excuse justifying their default. *See* Fed. R. Civ. P. 6(b)(1)(B).

3. Defendants' failure to respond is yet another example of their repeated attempts to thwart the efficient movement of this litigation. Defendants' dilatory behavior should not be excused. Plaintiffs' Motion attached a Memorandum of Law in support, as well as a Declaration of Claudia Wilner, with accompanying attachments, all of which support Plaintiffs' entitlement to the relief sought by their Motion.

4. Because Defendants have not responded, they have waived any responsive arguments. Plaintiffs therefore respectfully request that the Court enter an Order granting Plaintiffs' Motion and awarding them reasonable expenses, including attorneys' fees, associated with bringing their Motion. *See* Fed. R. Civ. P. 37(a)(5)(A).

5. Plaintiffs have attached a Proposed Order to this Motion, setting forth the specific relief sought by their Motion to Compel.

Dated: August 19, 2019

Respectfully Submitted,

/s/ Keisha A. Williams

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\* *Application for admission forthcoming.*